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**FROM:** MATTHEW C. LOPPNOW (847) 523-2585  
(SENDER'S NAME) (EXTENSION)

**RE:** APPLICATION NO. 09/614,026 APPEAL REPLY BRIEF

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Appl. No. 09/614,026  
Atty. Docket No. PF01949NA

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**I. REAL PARTY IN INTEREST**

The Examiner's Answer correctly acknowledges the real party in interest.

**II. RELATED APPEALS AND INTERFERENCES**

The Examiner's Answer correctly acknowledges the related appeals and interferences.

**III. STATUS OF CLAIMS**

The Examiner's Answer correctly acknowledges the status of the claims.

**IV. STATUS OF AMENDMENTS**

The Examiner's Answer incorrectly identifies the status of amendments as incorrect. In particular, in the "Status of Amendments" section, Applicants asserted no amendments were made to the claims after the September 10, 2003 Final Office Action. However, the Examiner's Answer alleges, "The amendment after final rejection filed on 2/9/04 has not been entered." To the contrary, no Amendment After Final Rejection was filed on February 9, 2004. Only a Response After Final Rejection was filed on February 9, 2004 and the Response did not include any amendments. Thus, there are no amendments in an Amendment After Final Rejection for entry.

**V. SUMMARY OF INVENTION**

The Examiner's Answer correctly acknowledges the summary of the invention.

**VI. ISSUES**

The Examiner's Answer correctly acknowledges the issues.

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## VII. GROUPING OF CLAIMS

The Examiner's Answer acknowledges the grouping of the claims.

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## VIII. ARGUMENT

Applicants maintain that Robert et al. does not disclose or suggest selecting a first portion of a plurality of users to be within a pro active region based upon positional and topographic information and maintaining information on the users selected to be within a pro active region, as recited in independent claim 1 and similarly recited in independent claims 12 and 26.

The "network topography" mentioned in Robert et al. is not the claimed topographic information. In particular, the claimed "topographic information" is defined in the present specification at page 11, lines 2-20, as being formations that may interfere with communications. The network topography mentioned in Robert et al. is directed to the actual ad hoc network, not formations that may interfere with communications. Thus, the disclosure of network topography is not the disclosure of topographic information.

The Examiner's Answer attempts to introduce a new ground of rejection by using an undated photocopy Webster's English Dictionary to define "topography." This new ground and definition is incorrect. In particular, the dictionary definition only discusses "topography" in general. It does not define the "network topography" disclosed in Robert et al. It further does not define the claimed "topographic information." The new ground also completely ignores Applicants' express definition of "topographic information" in the specification. Thus, the new ground of rejection is incorrect.

Applicants also maintain that the statement in Robert et al. of, "transceiver characteristics may be altered according to environment surroundings, terrain, or other factors," does not amount to accessing topographic information and selecting a plurality of users based on topographical information. In particular, altering transceiver characteristics is not selecting a plurality of users.

Furthermore, Applicants maintain that Robert et al. does not disclose maintaining information on users selected to be in a pro active region. In particular, Roberts et al only

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discloses that the environmental surroundings and terrain are only considered when data transfer is performed, not for the creation of a pro active region.


Thus, Robert et al. does not disclose or suggest selecting a first portion of a plurality of users to be within a pro active region based upon positional and topographic information and maintaining information on the users selected to be within a pro active region, as recited in independent claim 1 and similarly recited in independent claims 12 and 26.

Therefore, Applicants respectfully submit that independent claims 1, 12, and 26 define patentable subject matter. The remaining claims depend from the independent claims and therefore also define patentable subject matter. Accordingly, kindly reverse and vacate the rejection of claims 1, 12, and 26 under 35 USC § 102, with instructions for the Examiner to allow Claims 1-7, 9-18 and 20-26.

#### CONCLUSION

In view of the discussion above, the claims of the present application are in condition for allowance. Kindly reverse and vacate the rejections of claims 1, 12, and 26, with instructions for the Examiner to allow claims 1-7, 9-18 and 20-26 to issue as a United States Patent without further delay.

Respectfully submitted,

  
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Dated: August 28, 2004

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